

**KSE  
YALASKA STATE LEGISLATURE  
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

April 20, 2022  
1:32 p.m.

**DRAFT**

**MEMBERS PRESENT**

Senator Mia Costello, Chair  
Senator Peter Micciche  
Senator Gary Stevens  
Senator Elvi Gray-Jackson

**MEMBERS ABSENT**

Senator Joshua Revak, Vice Chair

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(s)

Alaska Workers' Compensation Board  
Mathew Barth - Anchorage

- HEARD AND HELD

Board of Certified Direct-Entry Midwives  
Hannah St. George

- ITEM REMOVED FROM AGENDA

SENATE BILL NO. 238

"An Act relating to the business of money transmission; relating to money transmission licenses, licensure requirements, and registration through the Nationwide Multistate Licensing System; relating to the use of virtual currency for money transmission; relating to authorized delegates of a licensee; relating to acquisition of control of a license; relating to record retention and reporting requirements; authorizing the Department of Commerce, Community, and Economic Development to cooperate with other states in the regulation of money transmission; relating to permissible investments; relating to violations and enforcement of money transmission laws; relating to money transmission license exemptions; relating to payroll processing

services; repealing currency exchange licenses; and providing for an effective date."

- MOVED SB 238 OUT OF COMMITTEE

SENATE BILL NO. 175

"An Act relating to telehealth; relating to the practice of medicine; relating to medical assistance coverage for services provided by telehealth; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 197

"An Act relating to direct health care agreements; and relating to unfair trade practices."

- BILL HEARING CANCELED

#### **PREVIOUS COMMITTEE ACTION**

BILL: SB 238

SHORT TITLE: MONEY TRANSMISSION; VIRTUAL CURRENCY

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/25/22	(S)	READ THE FIRST TIME - REFERRALS
03/25/22	(S)	L&C, FIN
04/20/22	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

#### **WITNESS REGISTER**

MATTHEW BARTH, Appointee

Alaska Workers' Compensation Board

Department of Labor and Workforce Development (DOLWD)

Anchorage, Alaska

**POSITION STATEMENT:** Testified as an appointee to the Alaska Workers' Compensation Board.

ROBERT SCHMIDT, Director

Division of Banking and Securities

Department of Commerce, Community and Economic Development (DCCED)

Anchorage, Alaska

**POSITION STATEMENT:** Presented a PowerPoint to introduce SB 238 on behalf of the administration.

TRACY RENO, Chief of Examinations

Division of Banking and Securities  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions on behalf of the administration during the hearing on SB 238.

THOR STACEY, Alaska State Director  
National Federation of Independent Business (NFIB)  
Juneau, Alaska  
**POSITION STATEMENT:** Testified in support of SB 238.

## **ACTION NARRATIVE**

[1:32:52 PM](#)

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Gray-Jackson, Stevens, and Chair Costello.

^Confirmation Hearing(s)

### **CONFIRMATION HEARING(S)**

#### **Alaska Workers' Compensation Board**

[1:33:36 PM](#)

**CHAIR COSTELLO** announced the consideration of Governor Appointees to Boards and Commissions. She asked Mathew Barth to tell the committee about his interest in serving on the Alaska Workers' Compensation Board

[1:34:05 PM](#)

**SENATOR MICCICHE** joined the committee.

[1:34:18 PM](#)

}MATTHEW BARTH, Appointee\* Alaska Workers' Compensation Board\* Department of Commerce, Community and Economic Development (DCCED)\* Anchorage, Alaska\* Testified as an appointee to the Alaska Workers' Compensation Board.{ Been an officer for about 15 years and looks forward to applying his skills to this committee.

**CHAIR COSTELLO** appointed January 24

**MR. BARTH** said that sounds about right.

**CHAIR COSTELLO** challenges

**MR. BARTH** don't get emotionally attached but look at the evidence Want to focus on what the law says as a guide.

[1:36:58 PM](#)

CHAIR COSTELLO thanked him for being willing to serve.

[1:37:38 PM](#)

CHAIR COSTELLO opened public testimony on the appointment of Mathew Barth to the Alaska Workers' Compensation Board; finding none, she closed public testimony.

[1:38:07 PM](#)

At ease

^#sb238

**SB 238-MONEY TRANSMISSION; VIRTUAL CURRENCY**

[1:38:41 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SENATE BILL NO. 238 "An Act relating to the business of money transmission; relating to money transmission licenses, licensure requirements, and registration through the Nationwide Multistate Licensing System; relating to the use of virtual currency for money transmission; relating to authorized delegates of a licensee; relating to acquisition of control of a license; relating to record retention and reporting requirements; authorizing the Department of Commerce, Community, and Economic Development to cooperate with other states in the regulation of money transmission; relating to permissible investments; relating to violations and enforcement of money transmission laws; relating to money transmission license exemptions; relating to payroll processing services; repealing currency exchange licenses; and providing for an effective date."

This is the first hearing.

[1:39:24 PM](#)

}ROBERT SCHMIDT, Director\* Division of Banking and Securities\* Department of Commerce, Community and Economic Development (DCCED)\* Anchorage, Alaska\* Delivered a PowerPoint to introduce SB 238.{

Slide 2, loosely followed the bullets

The bill passed in 2007 did not envision cryptocurrency Ask him to give his testimony to her.

[1:42:14 PM](#)

CHAIR COSTELLO asked him to explain what cryptocurrency is.

[1:42:42 PM](#)

MR. SCHMIDT explained the origins of money transmission. Skip to slide 4

[1:43:51 PM](#)

How many money transmission licenses issued in the state. Three kinds. Fiat is real money

[1:45:08 PM](#)

Skipping to slide 5 shows the volume of money transmission

[1:46:07 PM](#)

slide 6 is the nub

[1:46:46 PM](#)

slide 11 talks about what virtual currency is He read the definition

He explained how started.

[1:49:32 PM](#)

[1:50:01 PM](#)

MR. SCHMIDT returned to slide 3. He is reading What is covered by the 2008 Act

[1:52:08 PM](#)

Slide 4 money license transmissions have increased 63 percent

[1:52:51 PM](#)

Slide 5 Money Transmission Volume these numbers do not represent the third bucket

[1:53:35 PM](#)

Slide 6 the most important in the deck. Money Transmission Volume - Virtual Currency

[1:55:31 PM](#)

CHAIR COSTELLO what does it mean to be regulated.

MR. SCHMIDT there would be transition provisions. Now with real money,

[1:57:47 PM](#)

SENATOR STEVENS how do you know somebody isn't reporting and what is the penalty.

MR. SCHMIDT deferred.

[1:58:31 PM](#)

}TRACY RENO, Examinations Chief\* Division of Banking and Securities\* Department of Commerce, Community and Economic Development (DCCED)\* Anchorage, Alaska\* Provided information and answered questions during the hearing on SB 238.{

SENATOR STEVENS what if an applicant doesn't come in

MS. RENO USE the multistate licensing system or complaints and investigators search the internet

SENATOR STEVENS how many on examinations and INVESTIGATIONS

MS. RENO

[2:00:49 PM](#)

SENATOR MICCICHE how do you regulate something

MR. SCHMIDT effort to stabilize value but essentially bill will ensure those who send and receive follow rules.

SENATOR MICCICHE saw fluctuations for bitcoin values. Is that pure speculation and you're wanting to trace that transactions are legal.

MR. SCHMIDT desire in regulation is not to impact the value but ensure it isn't used in money laundering or to funnel where it ought not be

[2:03:41 PM](#)

MS. RENO added want to know how the transactions are conducted.

SENATOR MICCICHE when you look at a market cap of in short time, is there a chance that a large portion of value of crypto is associated with laundering

[2:05:25 PM](#)

MR. SCHMIDT the perception of anonymity is a significant part of value

[2:05:51 PM](#)

SENATOR STEVENS noted he said there was a connection to the art market. He asked if that is really a good comparison

MR. SCHMIDT keep track of where the bitcoin has gone from when it was mined.

CHAIR COSTELLO you were talking about the national database.

MR. SCHMIDT said MNLS stands for it came from the housing crisis from 2000 Since then the system has grown to all sorts of licensing.

Observed that Alaska wants to be business friendly and being harmonious is important. make systems compatible with other states.

[2:09:11 PM](#)

MS. RENO added that the division does multiple things with the MNLS.

[2:10:25 PM](#)

CHAIR COSTELLO asking is that system something the department could do

MR. SCHMIDT said he didn't know if it would be interoperable

CHAIR COSTELLO thanks

[2:11:13 PM](#)

slide 7 Bill has a fiscal note.

[2:13:05 PM](#)

Slide 8 Why Change the Act He's reading this slide.

[2:13:41 PM](#)

Slide 9 continuing to read the bullets only loosely He noted that the bill was drafted in consultation

[2:15:50 PM](#)

In sum, this bill will now is reading the bullets

[2:16:46 PM](#)

slide 11 talked about the definition, he summarized

[2:17:24 PM](#)

MR. SCHMIDT end

SENATOR STEVENS four weeks to go. How important is it to deal with this this year.

MR. SCHMIDT said in his world, this is a priority to staff, and can't believe the number seeing in 2021 Concerned we might attract problems without this bill.

will look at regulations if the legislation doesn't pass.

SENATOR STEVENS understand the urgency. It's a big lift but hope it

CHAIR COSTELLO companion.

MR. SCHMIDT yes, it's in HL

CHAIR COSTELLO aware of opposition.

[2:20:47 PM](#)

MR. SCHMIDT said payroll processors

[2:22:24 PM](#)

SENATOR STEVENS where is Alaska

MR. SCHMIDT quoted an examiner. This model was approved last fall.

CHAIR COSTELLO thanks for your attention.

MR. SCHMIDT ok

CHAIR COSTELLO asked Ms. Reno to give a brief review of the section highligh

[2:23:52 PM](#)

MS. RENO Chief of Examinations. said she would read but would try to make it brief.

[2:25:39 PM](#)

**Section 6** amends AS 06.55 to add new sections AS 06.55.108, AS 06.55.109, and AS 06.55.110 to Article 1 to conform with the model law.

**AS 06.55.108** concerns maintenance of money transmission licenses. It provides that licensees must continue to meet the qualifications that

apply to new applicants, and that the department may suspend or revoke a license if a licensee fails to do so.

**AS 06.55.109** concerns information requirements for certain individuals. This section contains information submission requirements for individuals in control of applicants or licensees, and "key individuals" as defined by the bill. It also contains background report requirements applicable to individuals who have resided outside of the United States in the last ten years.

**AS 06.55.110** concerns consistent state licensing. It grants the department discretion to (1) implement licensing provisions and protocols in a manner that is consistent with other states that have adopted a multistate licensing process, (2) establish relationships or contracts that enables the department to collect and maintain records, coordinate licensing, process fees, and communicate with licensees, and (3) utilize NMLS for all aspects of licensing.

2:29:10 PM

**Section 9** amends AS 06.55.302 concerning unauthorized activities to add a joint and several liability provision applicable to persons who engage in money transmission on behalf of an unlicensed person.

2:30:05 PM

Skipped to Sections 17 and 18

**Sections 16 - 17** amend subsections (a) and (d) of AS 06.55.405 for consistency with the model law. AS 06.55.405 concerns record keeping obligations of licensees. Subsection (a) is amended to increase the recordkeeping time period from 3 years to 5 years and to make conforming language changes. Subsection (d) is amended to make conforming language changes.

**Section 18** amends AS 06.55.406(a). AS 06.55.406 concerns "money laundering reports" - this heading would be retitled "Bank Secrecy Act reports" for consistency with the model law. The primary change made by this amendment is to remove the requirement

that certain money laundering, record keeping, and suspicious transaction reporting requirements be filed with the Attorney General. This amendment is consistent with the model law and may reflect that compliance with federal reporting obligations is sufficient.

2:30:58 PM

**Section 24** amends AS 06.55 to add new sections to Article 4. Each of these sections are components of the model law.

**AS 06.55.408** concerns audited financials. This section requires licensees to submit an annual audited financial statement to the department and the requirements applicable to audited financial statements.

**AS 06.55.409** concerns implementation of the chapter. Subsection (a) grants the department discretion to enter into agreements with other state and federal agencies to improve efficiencies and reduce regulatory burden; to contract, hire, or purchase software to facilitate investigations; to accept licensing, examination, or investigation reports made by federal or state agencies; and to accept audit reports of independent CPAs or qualified third-party auditors. Subsection (b) grants the department broad discretion to administer, interpret, and enforce the chapter, to adopt rules and regulations, and to recover its costs through imposition and collection of fees.

**AS 06.55.410** concerns networked supervision. This section expands the department's ability to participate in multistate supervisory processes, including joint investigation.

**AS 06.55.411** concerns relationship to federal law. It provides that in the event of an inconsistency between state and federal law, the federal law governs to the extent of the inconsistency. It also allows the department to issue clarifying guidance regarding inconsistencies to assist licensees in compliance

with both the federal law and applicable state law.

**AS 06.55.412** concerns notice and information requirements for a change in control of a key individual. This section is a regulatory tool similar to the requirements of AS 06.55.403 that contains the requirements and procedures applicable when licensees add or replace "key individuals." The department may disapprove a change of key individual if the department finds that the individual's experience, character, or integrity would not be in the best interest of the public or the licensee's customers.

[2:31:21 PM](#)

CHAIR COSTELLO return to Section 18 and explain why remove report to state AG

MS. RENO explained there are federal requirements in place and the forms are filed with federal It is duplicative to have the state AG get this report

[2:33:14 PM](#)

MS. RENO continued Sections 25-30

**Sections 25 - 30** make revisions to Article 5 of AS 06.55 to rename and broaden its scope from "Permissible Investments" to "Prudential Standards." In accordance with this change, two existing sections (AS 06.55.104 and AS 06.55.107) are repealed and reenacted, as revised, to fit within this new Article.

**Section 25** amends AS 06.55.501, concerning maintenance of permissible investments, for consistency with the model law. It amends AS 06.55.501(b) to allow the department to limit specific investments held by licensees due to risk concerns, with the exception of those permissible investments listed in AS 06.55.102. It amends AS 06.55.501(c) to add additional language to protect the beneficiaries of statutory trusts from actions by creditors of licensees.

**Section 26** amends AS 06.55.501 to add a new subsection (d) concerning establishment and termination of statutory trusts and related

department obligations. It also adds a new subsection (e) that allows the department to allow additional permissible investments and to participate with other state regulators to identify permissible investments.

**Sections 27 - 28** amend subsections (a) and (b) of AS 06.55.502, concerning permissible investments, for consistency with the model law. Subsection (a) creates a list of permissible investments that may be amended or modified by the department. Subsection (b) is repealed and reenacted to contain a list of investments that are permissible to the extent specified within allowable aggregate values for each investment category as a component of a licensee's total investment portfolio.

The revisions to AS 06.55.502(a)(1) incorporate cash equivalents including Automated Clearing House (ACH) items in transit to licensees and payees, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, and debit card or credit card funded transmission receivables owed by any bank. The inclusion of these specific cash equivalent types is intended by CSBS to resolve disagreement between industry and states regarding derecognition of cash transactions in transit for accounting purposes. Because ACH funds are in the banking system, the model law defines cash in transit via ACH as a permissible investment, thereby ensuring that licensees are not obligated to raise additional funds to cover funds that are in the banking system.

AS 06.55.502(a) would also be amended to add paragraph (4) to include letters of credit as a permissible investment type. In conjunction with Section 29, which lists the requirements for letters of credit allowed by AS 06.55.502(a)(4), the addition of letters of credit is intended by CSBS to create a mechanism that allows states to

make consumers whole without seizing assets through bankruptcy. In consideration that a licensee may operate in multiple states, the letter of credit is intended as single vehicle to allow recovery, as needed, for customers in various states.

Finally, AS 06.55.502(a) is amended to allow excess bonding as a permissible investment type.

**Section 29** amends AS 06.55.502 to add a new subsection (d) containing the requirements for permissible letters of credit.

**Section 30** amends AS 06.55 to add new sections to Article 5. As described above, existing versions of these statutes can be found in Article 1.

**AS 06.55.505** concerns applicable forms of security (AS 06.55.104). As proposed, this section is a hybrid of the model and existing law. It adopts the model law's approach that requires licensees to hold a security bond, or with the department's approval, a deposit, in an amount equal to the licensee's average daily money transmission liability in the state. To avoid calculation of average daily money transmission liability, licensees may hold a bond in the maximum amount of \$1,000,000. The bill varies from the model law in the following ways: (1) the model law would set the maximum bond amount at \$500,000; (2) it requires that the surety bond be obtained from a surety company authorized to do business in Alaska; and (3) it requires that surety bond to be maintained for as long as the department specifies, but no less than 5 years.

**AS 06.55.506** concerns net worth (AS 06.55.107). It is a significant expansion of net worth requirements from existing law, which only requires applicants to maintain a net worth of \$25,000 in accordance with generally accepted accounting principles. This section would require licensees to maintain tangible net worth based upon tiered levels of total assets held. It

requires applicants to demonstrate net worth at application and allows the department to exempt applicants or licensees from net worth requirements.

[2:35:45 PM](#)

Sections 35-37

**Sections 35 - 37** amend subsections of AS 06.55.603 for consistency with the model law. These edits are limited to conforming language changes such as deletion of "money services" and insertion of "transmission."

[2:36:12 PM](#)

Section 38

**Section 38** amends AS 06.55.605 concerning civil penalties to allow the department to assess its costs and expenses for investigation and prosecution, including attorney's fees, as part of the civil penalty assessment allowed under this section.

[2:37:30 PM](#)

Section 43

**Section 43** amends AS 06.55.802 for consistency with the model law. This section extensively revises existing AS 06.55.802 concerning licensing "exclusions." In addition to renaming the section to "Exemptions," proposed Section 43 would add six new exemption types and would allow the department to add additional exemptions if "in the public interest" and if regulation is unnecessary for the purposes of the chapter. Some of the exemptions are added to allow businesses that provide money transmission as an ancillary service are not required to hold licenses (e.g. insurance companies, title companies, and attorneys). Others identify employees, third-party services providers, agents of payees, and intermediaries as exempt in certain circumstances. Though the list of exemption is lengthy, CSBS recommends consistent adoption of exemptions so that compliance regimes are consistent from state-to-state.

[2:38:26 PM](#)

Skipped to Section 47

**Section 47** repeals and reenacts AS 06.55.830, concerning receipts, for consistency with the model law. Subsections (a) - (c) contain content and format requirements for transaction receipts and define "receipt" for purposes of the section. Receipts are required to be in English and any other language principally used by the licensee or authorized delegate to negotiate the transaction conducted. Subsection (d) contains exceptions to the receipt requirement.

[2:39:27 PM](#)

Section 50

**Section 50** amends AS 06.55 to add a new section AS 06.55.845 concerning required disclosures for payroll processing services. Subsection (a) contains disclosure requirements and subsection (b) provides that the disclosure requirements do not apply in certain circumstances.

Section 53-60

**Sections 53 - 60** amend definitions found in AS 06.55.990 for consistency with the model law. These changes include incorporation of the words "in this state" to ensure AS 06.55 protects Alaskan consumers. Revisions are made to align the language of AS 06.55 with the model law, including an exception for loyalty reward cards, amends the definition of control to at least 10% of ownership, and the amended definition of "stored value."

[2:40:32 PM](#)

Section 61

**Section 61** amends AS 06.55.990 to add definitions for terms introduced by the model law. These terms include "acting in concert," "average daily money transmission liability," "Bank Secrecy Act," "closed loop stored value," "control," "eligible rating," "eligible rating service," "in this state," "key individual," "passive investor," "payroll processing services," and "tangible net worth."

[2:41:52 PM](#)

Section 70

**Section 70** provides for an effective date of January 1, 2023.

CHAIR COSTELLO questions

SENATOR STEVENS as complex as alcohol bill.

[2:42:27 PM](#)

CHAIR COSTELLO opened public testimony on SB 238; finding none, she closed public testimony.

[2:42:42 PM](#)

At ease

[2:43:20 PM](#)

CHAIR COSTELLO reconvened the meeting and invited

[2:43:33 PM](#)

}THOR STACEY, Alaska State Director\* National Federation of Independent Business (NFIB)\* Juneau, Alaska\* Testified in support of SB 238.{ to be clear, we don't have vetted position but efforts are across the country. Big picture problem is call to understand where going or use for counter Secondary problem is consumer protection. Look at through small business perspective. See the bill as at the request of large, not small businesses. This raises a cautionary flag. Want small business to be included if it becomes a bigger

[2:46:25 PM](#)

Identified sections of concern bill has other reforms for all currency.

Section 7 provides exemption Explain the \$5,000 threshold .208 requires maintain amount onerous restriction for small business.

[2:48:16 PM](#)

Section 30 captures concerns about regulatory barriers. Raising from \$25,000 hard on small businesses Want to know if cp and transparency then why raise if haven't

Some provisions look like raising barriers and cutting small business out.

Don't oppose licensure but many details are more than just adding cryptocurrency to

[2:50:41 PM](#)

CHAIR COSTELLO Section 30 says allow department to exempt

MR. don't think would be for small business but for professional service that holds money in escrow.

[2:51:35 PM](#)

SENATOR MICCICHE see this is from banking and securities

MR. STACEY said he understands that key proponents are larger money transmitters like Pay Pal.

[2:53:00 PM](#)

CHAIR COSTELLO asked Mr. Schmidt TO respond to Section 30.

[2:53:27 PM](#)

MR. SCHMIDT NOTHING he mentioned is a red flag and want to assist small business. Open to conversation about appropriate threshold in Alaska. The bill was promulgated by reached out to money transmitters. It is accurate to say it was the larger money transmitters who were at the table

Thor's comment English not first language is correct.

[2:55:14 PM](#)

CHAIR COSTELLO can the department exempt or

MR. SCHMIDT deferred to Ms.

[2:55:33 PM](#)

MS. RENO PAGE 36 (c) on page 36 (c)

CHAIR COSTELLO can you exempt small

both said yes

[2:56:29 PM](#)

[2:56:43 PM](#)

CHAIR COSTELLO reconvened

[2:56:48 PM](#)

SENATOR MICCICHE moved to report SB 238, work order 32-GS2312\A, from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO found no objection and SB 238 was reported from the Senate Labor and Commerce Standing Committee.

SENATOR MICCICHE commented that he supports moving the bill to finance since this committee reviewed what was in its purview.

[2:58:20 PM](#)

SENATOR STEVENS agreed it is an important bill that should be forwarded to the Finance Committee.

#

[2:58:45 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Committee meeting at 2:58 p.m.